

**Town of Scituate
Conservation Commission
Town Hall Selectmen's Hearing Room
Meeting Minutes
July 22, 2013**

Meeting was called to order at 6:20 p.m.

Members Present: Mr. Snow, Chairman, Ms. Caisse, Mr. Harding, Mr. Schmid, Ms. Scott-Pipes, and Mr. Tufts,

Also Present: Patrick Gallivan, and Carol Logue, Secretary

Agenda: Motion to amend the agenda to include and discuss 12 Ocean Drive; Certificate of Compliance for 288 Gannett Road and Lot 7 Summer Street; and plantings at 181 Edward Foster Road Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Mr. Snow announced the continued hearings that were requested: Ocean Ave, 6 Cliff Road, and 272 Central Ave.

Request for Determination: Loftus, 62 Rebecca Road (extend deck) (cont.)

Kathleen Loftus and Brian Howell were present at the hearing. Looked at the last filing and didn't see any mitigation requirements. This project is for a 12' x 48' deck 6' out and 10' to the side on sonotubes. Ms. Scott-Pipes: Can you cantilever it to keep it out of the 50' buffer? Mr. Howell: that 50' buffer is just phragmites. Phragmites isn't the indicator of the buffer zone. You are 50' off the wetland flags; doesn't matter what is growing there. There is a 50' no disturb zone. Would have to check with the builder. Mr. Harding agrees with cantilevering so there is no digging in the 50' buffer; looks like it would be possible. Mr. Gallivan: If there is a way to keep out of the 50' buffer, it would be good. Mr. Snow: typically there should be nothing in the 50' buffer unless there is a very good reason; however, a deck is not very intrusive. Should have a building plan, need it for the building department. Talk to the builder about another method. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any)." The footings of the deck shall not be within the 50' buffer zone. The deck could be cantilevered or reduced in size. Submit a revised plan/drawing showing the revision. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Sheerin, 124 (Lot 3) Mann Hill Road (new build) (cont.)

Greg Morse from Morse Engineering and Doug Sheerin were present at the hearing. Last meeting discussed wetland line shown in blue, access, and location of dwelling. The 50' buffer line is in red, and the 100' in green. Commission members Penny and Frank made a site walk with Pat and Greg Morse. A revised plan was submitted. Pulled house back from 53' to 58', with 4' deep frost wall foundation and sheet piling. Scaled deck back 6' from the 50' buffer. Along the 50' buffer there will be a split rail fence and along the driveway conservation posts stating conservation zone. Fence will be put in first to create a barrier. Stormwater management: 4 drywells with crushed stone infiltration trenches. Post development will match predevelopment rate, but site discharges to a tidal area, so not required to meet pre- and post-rates. Ms. Scott-Pipes: not an expert on stormwater, but happy house is moved back and the fence installed before construction starts. Mr. Schmid: Where the driveway is there is a fairly steep slope, any problems to the abutter with the tennis court? Not going to cut into the embankment; 3' high retaining wall proposed. Don't see that the slope will be disturbed. Ms. Scott-Pipes: will you leave the vegetation as it is on that slope? Removing some, imagine it will be landscaped. Stipulate that it is to be heavily landscaped; can condition. Mr. Gallivan: could add two more conservation posts along the fence and two along the driveway. Zack Tartol, 382 Hatherly: own the tennis court. Extremely steep slope, lots of runoff, if mulch is used it will wash down. Ms. Scott-Pipes: wouldn't want it washed to their driveway either. Probably need to see a planting plan. Mr. Snow: because this property is close to wetlands the Commission has the stormwater review. We will ask an engineer to review. Make sure additional water won't run onto Mann Hill, which would ultimately adversely affect the marsh and Musquashicut. Still building between the 50' and 100'; would normally look for mitigation. Any advantage in clearing maybe 10' of the 50' buffer and revegetate with more native species? If all native species and functionally fine, no, but if there are invasives, it wouldn't be a bad idea. Mr. Gallivan: There are some phragmites by the street; maybe enhance that area with native plantings. And part of the problem would be disturbance in the 50' buffer. Mr. Snow: Not encouraging clearing more, but, maybe could have a botanist take a look. Further down there is a lot of phrags and drainage problems. Roberta Sullivan, 382 Hatherly: That whole road floods, the stream flows very freely, moving all the time. Mr. Gallivan: pipe down below could be cleaned if that was clogged. Eileen Lagrotteria, 106 Mann Hill Road: last winter runoff from the top of the hill deteriorated the road, it will need work. Must be water going under and into the culvert; road is cracking and buckling a bit down the center. Motion to close the hearing Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Central Ave.: Russell Clark was present. Mr. Gallivan: Have a draft Enforcement Order ready, discussed this violation at the June 24th hearing. Mr. Clark: Hoping to have the NOI submitted for this meeting; contacted John Keefe of Keefe Associates. He didn't get out there because of the heat. He is doing the field work tomorrow; do have a professional involved; no ill intent. Ms. Scott-Pipes: this is a problem because when Pat first spoke to you it was May. Should have made you remove the trailers until you filed a NOI; should not be storing anything in the resource area or on marsh grass. Mr. Gallivan: Don't think he has anything on marsh grass, but it could be dune grass. Cars and things have been stored there for years; have pictures and they will be part of the NOI. Mr. Snow: asked Mr. Clark to submit a filing; he is not meeting our deadline, but at least he is here to explain why. Keith Jansen, 148 Central Ave.: have a petition signed by quite a few people. Mr. Harding: Need some consistency; don't think it should be allowed. There is no relevance if people have done things in the past; doesn't make it right. Ms. Caisse: any chance to move the containers temporarily. Buoys can be moved. The area where the trailers used to be stored has been developed. This land just fell into his lap. Don't have a temporary place to put them. It is just a low flat trailer, not a box trailer. Talked to some neighbors and they were fine. Mr. Snow: trying to get it resolved. This just doesn't happen in Humarock, it is all up

and down the coast. In this particular case, maybe it is a continued use. There is more going on than used to be and a lot of people are frustrated. Want to get to the approval or denial stage. Mr. Clark: Did call John Keefe 2-1/2 weeks ago; haven't avoided a meeting, not trying to hide. Mr. Gallivan: has been going on a while. What Richard said about the past; our role is to prevent impacts to resources; this is precedence setting. We have to let it be known this it is not allowed. Mr. Clark: The trailer will usually not move again until Christmas. There are other people that use that land. We've had equipment removed on salt marsh or on dunes in Humarock and we've asked you to file. Mr. Bjorklund: all of Humarock is a resource area, are you saying you can't store a boat down there? Do Humarock residents really want to say that? Mr. Clark: Last check with John Keefe he was backed up, will try and get it here Tuesday, the dialogue is there, will politely push him. Keith Jansen: there has been no preexisting use; there was one car parked illegally. How is the area zoned, specifically as salt marsh and conservation land? Hope the Commission's property wouldn't be used for storage of anything. Twenty-five neighbors are asking to have the materials removed immediately. April 29 was when the first letter was written. Mr. Gallivan: Have an Enforcement Order ready, with possible movement toward an NOI, and it could be used to fine people. If the filing is not here by the next meeting we will start fining. DEP has also heard from abutters. Enforcement Order is closed out once the Order of Conditions is issued.

Wetlands Hearing: Gordon, Ocean Ave. (new build & septic) (cont.)

Applicant's representative requested a continuance. Motion to continue the hearing to August 5, 2013 at 6:30 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Biviano, 6 Cliff Road (septic)

DEP approval is required. DEP may request some changes. Motion to continue the hearing to August 5, 2013 at 6:40 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Wetlands Hearing: Nashen, 272 Central Ave. (septic repair) (cont.)

Applicant's representative requested a continuance. Motion to continue the hearing to August 5, 2013 at 6:50 p.m. Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Mr. Gallivan: 12 Ocean Drive: Ripped out all of the dune grass and put in a fence without a permit or call. Contacted the property owner, out of town for the next hearing August 5th; will send a strong request to attend the August 19 meeting.

Certificate of Compliance: 288 Gannett Road – closing next Monday, looks in good shape.

Lot 7 Summer Street: Unusual Order of Conditions. They were not allowed to disturb the resource area. Mr. Snow: There are other wetlands in the back. This property is upland, but almost entirely surrounded by wetlands. Wanted to put in a driveway over a piece of wetlands. Orders said they could build if they didn't cross the wetlands. Nobody has seen the new plan. Look at the old file and Amend the Orders? Mr. Bjorklund: was a member of the Commission, but didn't vote on this. Driveway was coming in off of Summer Street that would require filling 200' square feet of wetlands. The whole Commission felt they could get a larger easement from Mr. Small. It was a condition that if they came back with a plan that didn't go through the wetlands it was approved. Don't think it is an amendment, just a vote to accept the revised plan.

Order of Conditions: Adams, 700 Glades Road (addition & septic)

Motion to condition the project Mr. Schmid. Second Mr. Harding. Motion passed by unanimous vote.

Order of Conditions: Farkas, 7 Oliver Street (raze/rebuild on wood piles)

Motion to condition the project Mr. Harding. Second Mr. Schmid. Motion passed by unanimous vote.

Order of Conditions: McCormack, 43 Wampatuck Ave. (addition)

Motion to condition the project Mr. Harding. Second Mr. Schmid. Motion passed by unanimous vote.

Order of Conditions: Nolen, 7 Marshfield Ave. (septic/repave to match existing/force main)

Mr. Harding: any discussion about allowing them to repave? No, all the surfaces remain the same. The leaching is on the right hand side that will remain gravel; no change in impervious. Motion to condition the project Mr. Schmid. Second Mr. Harding. Motion passed by unanimous vote.

Minutes: April 29, May 13, May 29, June 10

Motion to accept the minutes of April 29, 2013 Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

Motion to accept the minutes of May 13, 2013 Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

Motion to accept the minutes of June 10, 2013 Ms. Scott-Pipes. Second Mr. Tufts. Motion passed by unanimous vote.

73 Kent Street: Talked to Peter McEachern, he was going to contact the owners. He knows they are going to have to undo the variations from the original Order of Conditions. He doesn't have the right set of plans. The plan will show the fill that has to be removed. The only place he was allowed fill was for the driveway. No plantings or touching the stonewall is allowed. Showed play yard that isn't allowed. Shed is supposed to be moved. Hoping they would come in, they will need to follow the original plan. Ms. Scott-Pipes: called Mr. Snow and went out to the site. They were not working off the revised plans. There had been several plans. This is a large violation, not like Mr. Clark. They filled a large area that was not supposed to be filled. Ms. Scott-Pipes: well over a 1' of fill. Mr. Gallivan: hadn't seen since site was disturbed. Will meet Peter McEachern on site with the right plans. Ms. Scott-Pipes: do think we need to be careful on pre-constructions, but we are not their babysitters. Nowhere in those orders does it say you can fill. Even the silt fence was in the wrong place. It was in the marsh, a good 10'.

140 River Street - Ms. Scott-Pipes: this one Mr. Parys brought to the attention of the Commission. They put a wooden wall in the river. Orders were written to either remove or file for a Chapter 91 license. They switched attorneys a couple of times; nothing has been done. An

Enforcement Order was issued November 10, 2010. Thought it had gone to legal counsel. Mr. Gallivan: Recently we received a letter from their Attorney Richard Nylen.

136 Indian Trail: Last meeting Rick Grady and Paul Petrocelli were asked to come in because of extreme runoff and sediment going onto Mr. Yeh's property. Engineer and Petrocelli were supposed to decide whether a revised plan should be submitted or an amendment requested. They have had discussions with the abutters, but still need to come back to the Commission; it was a pretty substantial change.

Mr. Gallivan: Would think they had to go back to the building department also. Really think we should see existing conditions from Grady Consulting to see what was approved and what is actually out there; hugely different. Ms. Scott-Pipes: the Commission shut me up when I mentioned it was different. It is very clear it is quite different than what was proposed. Mr. Snow: Wetland piece was small, and then we wound up with the stormwater. They built up the rear of the property; should have installed a temporary basin. In the rear there is a huge pile of stone and dirt; clearly supposed to be back 15' or so. They did amend the stormwater permit, before he bought the property.

White, 181 Edward Foster Road Planting Plan: Replication plan that they were supposed to do. All the plants drowned, but a good job on the phragmites removal. Need a border planting of wetland species. They were clearing in the buffer zone, near the stonewall. Thinking of coming back to create a pond. Wanted to plant flowers in a cobble dune. Down the driveway there is a bobcat and a pile of loam.

Horse on Edward Foster Road seems to be gone. The newspaper wouldn't accept the ad because of a past invoice. MSPCA, Dog Officer and the Board of Health are all involved. In storm conditions the horse is up to his knees in salt and fresh water.

Mr. Snow: Need to work out some lists of past projects to see who has interest in what. Talked to Bill Schmid about the "Spit". Bill has contacted Tony Jones, getting together Thursday.

Tony Jones would like to be involved with the CRs and really would like to help with Conway projects. Should request funds from CPC to have maps printed. CR is a conservation restriction that stipulates the uses allowed and how it will be maintained. Also there should be a third party that is supposed to oversee so that nothing happens on those properties that isn't supposed to happen. CRs have dragged out a long time and they are important.

Driftway Park: need different members to take on different projects and pieces of properties. Need to make some contacts and get volunteers. Have money in the Driftway Fund. We have not received any at town meeting for several years now and the logic was because we didn't spend it. Could request CPC monies to repair the dock; pier needs maintenance. Mr. Schmid: Waterways can get money also.

Mr. Gallivan: Dave Ball was going to come and talk about the Seawall Committee.

Wondering about two meetings a month, rather than every other week, cuts back 4 meetings a year, as long as we can hit our deadlines. Have them always the first and third Mondays of the month.

Went with Lisa Caisse to Oceanfront and Ocean Drive, they require letters. Gas Company dug trenches, pavement issue; a big paved area at the edge of the velocity zone.

Mr. Harding: major issues with the gas company in Humarock. Digging in street after street.

Rosemary Dobie: are you aware there is a second sea level rise meeting next Monday, August 2nd in Marshfield at Haddads at 6:30 p.m.?

CORRESPONDENCE

July 9, 2013 – July 22, 2013

1. Planning Board Notice of Decision re: Greenfield Estates Subdivision
2. Planning Board Notice of Decision re: Accessory Dwelling Special Permit 12 Salt Marsh Hill Drive
3. DEP File #68-2471 – McCormack, 43 Wampatuck Ave. (in file)
4. Revised Plans for Sheerin, 124 Mann Hill Road (in file)
5. Recording of CofC for 68-2229 Eleonore van de Ven, 101 & 107 Border Street (in file)
6. Stormwater Magazine
7. Russell Clark re: retained John S. Keefe of Keefe Associates to prepare a plan and NOI (in file)
8. MA Congress of Lake & Pond Associations, Inc. All future newsletters & other correspondence will be distributed by e-mail.
9. Recording of CofC – 68-1924 - DiBara, 20 Tenth Avenue (in file)
10. Mass Wildlife field Guide to the Amphibians of MA
11. Revised plans for 272 Central Ave. (4) sets (2 in file) (2 for Commission)
12. Revised plan Saunders, Lot 7 Summer Street showing a driveway providing access without disruption of the BVW. Wetland line from 2005 (in file)
13. As-built plan for 68 Glades Road (in file)
14. Request to continue Ocean Ave until the next available hearing date (in file)
15. 68-2152 - 12 Chief Justice Cushing Hwy – North River Marina, Dredging & other Works of improvement – hoping to start dredging this fall with disposal at the Cape Cod Bay Disposal Site off of the Town of Wellfleet. Started requesting proposals. Orders extended to April 7, 2015. (in file)

Meeting adjourned 8:00 p.m.
Respectfully submitted,

Carol Logue, Secretary